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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 EMMANUEL REEVES,
12 Plaintiff,

13 v.

14 DIESSLIN, et al.,
15 Defendants.
16

No. 2:22-CV-02084-DMC-P

ORDER

17 Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to
18 42 U.S.C. § 1983. Pending before the Court is Plaintiff's motion for the appointment of counsel,
19 ECF No. 5.

20 The United States Supreme Court has ruled that district courts lack authority to
21 require counsel to represent indigent prisoners in § 1983 cases. See Mallard v. United States Dist.
22 Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the court may request the
23 voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). See Terrell v. Brewer, 935
24 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).
25 A finding of "exceptional circumstances" requires an evaluation of both the likelihood of success
26 on the merits and the ability of the plaintiff to articulate his claims on his own in light of the
27 complexity of the legal issues involved. See Terrell, 935 F.2d at 1017. Neither factor is
28 dispositive and both must be viewed together before reaching a decision. See id. In Terrell, the

1 Ninth Circuit concluded the district court did not abuse its discretion with respect to appointment
2 of counsel because:

3 Terrell demonstrated sufficient writing ability and legal knowledge to
4 articulate his claim. The facts he alleged and the issues he raised were not
5 of substantial complexity. The compelling evidence against Terrell made it
6 extremely unlikely that he would succeed on the merits.

7 Id. at 1017.

8 In the present case, the Court does not at this time find the required exceptional
9 circumstances. Plaintiff fails to provide any facts indicating that appointment of counsel is
10 warranted, since he is able to articulate his claims on his own due to the absence of significant
11 complexity of the legal issues in dispute. Further, there is no showing of a likelihood of success
12 on the merits. See ECF No. 5, pg. 1. Plaintiff provides that he has written letters to three
13 attorneys without response, and that he has “limited knowledge of the law.” Id. Plaintiff has
14 failed to provide any facts supporting extraordinary need. Id. Thus, Plaintiff has failed to satisfy
15 the standard set forth in Terrell.

16 Plaintiff’s stated circumstances such as the lack of knowledge and difficulties in
17 obtaining legal counsel are common to almost all prisoners and, as such, not extraordinary. A
18 review of the filings to date indicates that Plaintiff can articulate his claims on his own, which are
19 neither factually nor legally complex, inasmuch as he independently prepared and filed a civil
20 rights complaint, motion to proceed in forma pauperis, and requested the assistance of counsel.
21 Further, at this stage of the proceedings, it cannot be said that Plaintiff has established a particular
22 likelihood of success on the merits, as Plaintiff’s complaint has not yet been screened, as required
23 under 28 U.S.C. § 1915A(a).

24 Accordingly, IT IS HEREBY ORDERED that Plaintiff’s request for the
25 appointment of counsel, ECF No. 5, is denied.

26 Dated: December 9, 2022

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28 DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE